

REMARKS

Claims 1 and 6 have been amended to recite that the polyester resin is an ethylene phthalate unit-containing polyester resin, and that the preform is formed by compression forming a molten resin mass.

The ethylene phthalate unit-containing polyester resin is described at page 8, lines 26-35 of the specification.

Compression-forming a *molten* polyester resin to thereby form a preform is described in claim 6 as originally filed. Further, as described at page 13, lines 2-4 of the specification, a *molten* polyester resin is fed to the compression-forming machine. As described at page 14, lines 14-18 of the specification, a mass of the composite *molten* resin in the female mold is compression-formed by a male mold. Furthermore, as described at page 19, lines 3-6 of the specification, and in reference to Example 1, a *molten* resin mass was set into a compression metal mold and was compression-formed.

Review and reconsideration on the merits are requested.

Claims 1-5 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,528,219 to Yamada et al. Yamada et al was cited as teaching a multi-layer preform comprising a layer of a polyester resin that contains ethylene terephthalate units, which preform is formed by compression molding and is said to meet each of the terms of the rejected claims. Specifically, because Yamada et al discloses a preform comprising a layer of a polyester resin containing ethylene phthalate units that is formed by compression molding, the Examiner concluded that the preform of Yamada et al would *inherently* meet a time that is not shorter than 300 seconds before a calorific value of isothermal crystallization of the layer of the polyester resin at 210°C reaches a maximum value.

Applicants traverse, and respectfully request the Examiner to reconsider in view of the amendment to the claims and the following remarks.

As described bridging pages 12-13 of the specification, a characteristic feature of the present invention is that a layer of the polyester resin constituting the preform has a time that is not shorter than 300 seconds before a calorific value of isothermal crystallization at 210°C reaches a maximum value. This is achieved by compression-forming the preform, and more specifically, by compression-forming a molten resin mass.

Turning to the cited prior art, the passage at col. 11, lines 47-51 cited by the Examiner discloses that:

The upper and lower end portions of the resulting pipe were re-heated by an infrared heater, and by a compression molding method, a threaded mouth portion and a bottom portion were formed to give a preform.

That is, in Yamada et al, the preform is formed by a method which comprises re-heating both ends of the pipe, and compressing both end portions only to form the mouth portion and the bottom portion.

In contrast, according to the present invention, a molten resin mass is delivered to a female mold and compressed by a male mold to form the entire preform at one time. Due to the above-noted distinct difference in processing methods, the preform of the invention has crystallizing characteristics considerably different from those of the preform of Yamada et al.

Specifically, according to Yamada et al, the mouth portion of the bottom portion formed after re-heating have thermally deteriorated because the resin was re-heated. Therefore, the time for half-crystallization of these portions becomes shorter than that of the body portion, and is certainly shorter than 300 seconds contrary to the requirement of present claims 1 and 6.

Further, according to Yamada et al's preform, both ends of the pipe are re-heated and compressed. In these portions therefore, the multilayer structure of the pipe becomes discontinuous. Further, the bottom portion of Yamada et al's preform is formed by adhering an open end of the pipe so as to generate strain. Additionally, the resin is thermally deteriorated so as to lose its strength, and cracks may occur.

According to the present invention, on the other hand, the preform inclusive of the bottom portion is integrally formed by compression-forming the molten resin mass, and is free from the problem of decreased mechanical strength in the bottom portion which is inherent in Yamada et al's preform. Further, the multi-layer structure is also maintained in the bottom portion.

In summary, due to the above-identified substantial differences in processing, the preform of Yamada et al does not meet a time that is not shorter than 300 seconds. Thus, the present claims are not anticipated by Yamada et al, and withdrawal of the foregoing rejection under 35 U.S.C. § 102(b) is respectfully requested.

Withdrawn method claim 6 has been amended to include all of the limitations of product claim 1. If claim 1 is found to be allowable, Applicants respectfully request rejoinder of method claims 6-8 pursuant to MPEP §821.04.

Withdrawal of all rejections, rejoinder of withdrawn claims 6-8 and allowance of claims 1-8 is earnestly solicited.

In the event that the Examiner believes that it may be helpful to advance the prosecution of this application, the Examiner is invited to contact the undersigned at the local Washington, D.C. telephone number indicated below.

AMENDMENT UNDER 37 C.F.R. § 1.114(c)
Application No.: 10/533,301

Attorney Docket No.: Q87762

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Abraham J. Rosner
Registration No. 33,276

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: January 14, 2009